

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BRIAN HENDERSON,
Plaintiff


v.

COLONEL ROBERT EVANCHICKI,
***et al.*,**
Defendants

:
:
:
:
:
:
:

CIVIL ACTION NO. 21-CV-1526

ORDER

AND NOW, this  day of December, 2021, upon consideration of Brian Henderson's Applications to Proceed *In Forma Pauperis* (ECF No. 1, 6), Prisoner Trust Fund Account Statement (ECF No. 3), *pro se* Complaint (ECF No. 2), and Motion for the Court to Request Counsel (ECF No. 7), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Brian Henderson, #20-02775, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of the Montgomery County Correctional Facility or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Mr. Henderson's inmate account; or (b) the average monthly balance in Mr. Henderson's inmate account for the six-month period immediately preceding the filing of this case. The Warden of the Montgomery County Correctional Facility or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Mr. Henderson's inmate trust fund account exceeds \$10.00, the Warden of the Montgomery County

Correctional Facility or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Mr. Henderson's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is directed to **SEND** a copy of this Order to the Warden of the Montgomery County Correctional Facility.

4. The Complaint is **DEEMED** filed.

5. All claims against Defendant Kevin Steele, Montgomery County District Attorney are **DISMISSED WITH PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B)(iii) for the reasons stated the accompanying Memorandum.

6. The Clerk of Court is **DIRECTED** to **TERMINATE** Kevin Steele as a Defendant in this case.

7. The remainder of Mr. Henderson's Complaint is **STAYED**, pursuant to the abstention doctrine of *Younger v. Harris*, 401 U.S. 37 (1971) until Mr. Henderson informs the Court that his related criminal case has been resolved. Following resolution of his criminal case, Mr. Henderson may file a motion to reopen this matter.

8. Mr. Henderson's Motion for the Court to Request Counsel (ECF No. 7) is **DENIED**.

9. The Clerk is **DIRECTED** to **CLOSE** this case for statistically purposes.

BY THE COURT:



GENE E.K. PRATTER, J.